

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 94-127(1) (DSD)

United States of America,

Plaintiff,

v.

ORDER

Reginald Pierre Beasley,

Defendant.

Lola Velazquez-Aguilu, Assistant U.S. Attorney, 300 South Fourth Street, Suite 600, Minneapolis, MN 55415, counsel for plaintiff.

Reginald Pierre Beasley, #06722-041, USP Florence - High, P.O. Box 7000, Florence, CO 81226, pro se.

This matter is before the court upon the pro se request by defendant Reginald Pierre Beasley to file a motion for reconsideration¹ of the court's December 4, 2014, order denying him relief under 28 U.S.C. § 2255. On September 7, 1995, the court sentenced Beasley to a term of imprisonment of 447 months. ECF No. 287. In relevant part, the court imposed a mandatory minimum term of 240 months on count 6, which charged Beasley with his third count of using a firearm in a crime of violence. Id.

¹ Although Beasley cites Federal Rule of Criminal Procedure 59(e), no such rule exists. Instead, the court construes Beasley's request for relief as arising under Federal Rule of Civil Procedure 59(e). See Ackerland v. United States, 633 F.3d 698, 701 (8th Cir. 2011) (noting that motions to reconsider on § 2255 orders are often construed as motions under Rule 59(e)).

Motions to reconsider require the "court's prior permission," which will be granted only upon a showing of "compelling circumstances." D. Minn. LR 7.1(j); see United States v. Fenner, No. 06-211, 2012 WL 2884988, at *1 (D. Minn. July 13, 2012) (applying Local Rule 7.1 to § 2255 petition). A motion to reconsider should not be employed to relitigate old issues but rather to "afford an opportunity for relief in extraordinary circumstances." Dale & Selby Superette & Deli v. U.S. Dep't of Agric., 838 F. Supp. 1346, 1348 (D. Minn. 1993).

Beasley argues that reconsideration is warranted because his 240-month sentence violates his right to due process in light of Alleyne v. United States, 133 S. Ct. 2151 (2013). Alleyne held that any fact that increases a mandatory minimum sentence "is an 'element' that must be submitted to the jury." Id. at 2155. Beasley raised this argument in his § 2255 motion, which the court denied on the grounds that Alleyne does not apply retroactively on collateral review. The court has reviewed Beasley's § 2255 motion and the December 4, 2014, order and finds that no compelling circumstances exist for reconsideration.

Accordingly, **IT IS HEREBY ORDERED** that the request to file a motion for reconsideration [ECF No. 397] is denied.

Dated: January 20, 2015

s/David S. Doty
David S. Doty, Judge
United States District Court